



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 09/769,604  
Applicant : Stephen M. Howard et al.  
Filed : January 25, 2001  
T.C./A.U. : 2157  
Examiner : Ramy M. Osman  
  
Docket No. : EMC-002PUS  
Customer No. : 022494

Confirmation No.: 4397

Certificate of Mailing (37 C.F.R. 1.8(a))  
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Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on the date set forth  
below.

29 Mar 05

Date of Signature  
and Mail Deposit

By:

Paul Durkee  
Paul D. Durkee  
Reg. No. 41,003

**REQUEST FOR EXTENSION OF TIME**

MS Amendment  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

Sir:

It is requested that the time for response to this Office Action dated November 30, 2004  
be extended for a one-month period of time to end March 30, 2005, under the provisions of 37  
C.F.R. §1.136. The fee of \$120.00 called for by 37 C.F.R. §1.17 is enclosed herewith.

04/01/2005 PREKONEN 00000006 09769604  
01 FC:1251 120.00 DP

04/06/2005 00000006 09769604  
01 FC:1251 390.00 CR

Adjustment Date: 08/22/2005 SDIRETA2  
06/06/2005 RBROWN1 00000011 500845 09769604  
01 FC:2253 390.00 CR

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

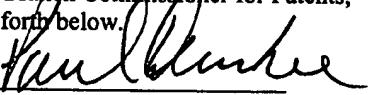
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7 Jul 05  
Date of Signature  
and Mail Deposit

By:

  
Paul D. Durkee  
Reg. No. 41,003

REQUEST FOR REFUND

Deposit Account Branch  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

Attn: Latrice Sims

Dear Latrice:

Our office filed a Response on March 29, 2005 to an Office Action dated November 30, 2004. When filing this Response, we filed a one month extension of time and included a check in the amount of \$120.00 to cover the cost of the one month extension of time. Our monthly deposit account number 50-0845 for the month of June, 2005, was charged in the amount of \$390.00 for a three month extension of time. Note that when the response was filed a one month extension of

time was due and a check in the amount of \$120.00 was included with the filing. Therefore, please credit our deposit account for the erroneous charge made by the USPTO for \$390.00.

Enclosed is a copy of the Monthly Statement of Deposit Account for Deposit Account 50-0845 showing the erroneous charge to Docket No. EMC-002PUS, Application Number 09/769,604. Also enclosed is a copy of the Response as filed.

Please call the undersigned attorney if you have any questions or if further information is required.

Respectfully submitted,

Dated: 7 Jul 05

DALY, CROWLEY, MOFFORD & DURKEE, LLP

By: Paul Durkee

Paul D. Durkee  
Reg. No. 41,003  
Attorney for Applicant(s)  
354A Turnpike Street, Suite 301A  
Canton, MA 02021-2714  
Tel.: (781) 401-9988, ext. 21  
Fax: (781) 401-9966  
*pdd@dc-m.com*

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Apply. No. 09/1769604 Attorney Docket No. CMC-11201 By: POO) p.m.  
 Title: *Water Block System* in the U.S. PTO, was received in the Mail Room on the date stamped hereon:  
 Application of: *Stephen M. Hallinan et al.*  
 \*The Following, DUE

Mailing by Express Mail (37 CFR 1.10)  
 Express Mail Label No.  
 Cert. of Mailing under 37 CFR 1.8(a)  
 Application for Patent incl. \_\_\_\_\_ pgs.  
 ( \_\_\_\_\_ pgs.) Specification, ( \_\_\_\_\_ pgs.) Abstract,  
 ( \_\_\_\_\_ pgs.) Claims (Claims \_\_\_\_\_)  
 Declaration Petition / Power of Attorney  
 Design Patent Application & Declaration / Oath  
 Drawings \_\_\_\_\_ Sheet(s) \_\_\_\_\_ Formal \_\_\_\_\_ Informal  
 (Figs. \_\_\_\_\_)

PCT Request 101 ( \_\_\_\_\_ sheets)  
 Chapter II Demand  
 PCT Fee/Calculation/Authorization Sheet  
 Response to Correct Defects  
 Check for \$120 Check # 3597  
 Check for \$ \_\_\_\_\_ Check # \_\_\_\_\_  
 Amendment/Response  
 Letter to Official Draftsman  
 Response to Notice to File Missing Parts  
 Notice of Appeal  
 Power of Attorney  
 Brief ( \_\_\_\_\_ x3)  
 Petition for Ext. of Time  
 Transmittal Letter PTO/SB/21  
 Fee Transmittal Letter PTO/SB/17  
 Assignment  
 Maintenance Fee Transmittal

TRADEMARK OFFICE RECEIVED  
 OIP  
 MAR 31 2003  
 TRADEMARK OFFICE RECEIVED

Other  
 Info. Disc. Statement, Substitute for PTO Form 1449  
 (Form PTO/SB/08A) and \_\_\_\_\_ References(s) Cited

Mailing Date: *March 29 2003*

Docketed

11:45:05

Application No. 60/176,624 Attorney Docket No. EMC-2000-211  
Title: Boat Deck Surface Protection System  
Application of: DUKE  
\*The Following, DUE in the U.S. PTO, was received in the Mail Room on the date stamped hereon:

Mailing by Express Mail (37 CFR 1.10)  
 Express Mail Label No. 100  
C. of Mailing under 37 CFR 1.8(a)  
 Application for Patent incl. 1 sheet(s)  
(1 pg.) Specification, (1 pg.) Abstract,  
(1 pg.) Claims (Claims incl. 1 )  
Declaration Petition / Power of Attorney  
 Design Patent Application & Declaration & Oath  
Drawings: 1 Sheet(s) 1 formal 1 Informal  
(Figs. 1)  
 Request For Non-Publication (PTO Form 60035)  
 CPA/RCI  
 Revocation of Power of Attorney/Appointment of  
New Power of Attorney  
 Other  
 Info. Disc. Statement, Substitute for PTO Form 1449  
(Form PTO/SB/08A) and 1 (Attorneys/Cited  
Mailing Date: March 29, 2005

Docketed

3597	53-73107213 04	
<b>DALY, CROWLEY &amp; MOFFORD, LLP.</b> 275 TURNPIKE STREET SUITE 101 CANTON, MA 02021	DATE <u>3/28/05</u>	<u>\$ 120.00</u>
<b>Assistant Commissioner for Patents</b>		<u>One hundred and twenty one and 00/100</u> DOLLARS &
PAY TO THE ORDER OF <u>EMC - 002805; I most 211</u> <u>EMC of most 211</u>		
FOR <u>EMC - 002805; I most 211</u> <u>EMC of most 211</u>		
<b>BANK of CANTON</b> 888.328.1690 • <a href="http://www.bankofcanton.com">www.bankofcanton.com</a>		

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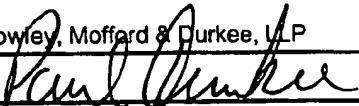
TRANSMITTAL  
FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

Application Number	09/769,604
Filing Date	January 25, 2001
First Named Inventor	Stephen M. Howard
Art Unit	2157
Examiner Name	Ramy M. Osman
Attorney Docket Number	EMC-002PUS

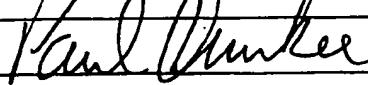
14

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached  <input checked="" type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s)  <input checked="" type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC Appeal Notice, Brief, Reply Brief <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): <input type="checkbox"/> Return Postcard
<div style="border: 1px solid black; padding: 2px; margin-bottom: 5px;">Remarks</div> <div style="border: 1px solid black; padding: 5px; font-size: 0.8em;">           In the event a petition for extension of time is required by this paper and not otherwise provided, such petition is hereby made and authorization is provided herewith to charge deposit account No. 50-0845 for the cost of such extension.         </div>		
SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT		
Firm Name	Daly, Crowley, Mofford & Durkee, LLP	
Signature		
Printed name	Paul D. Durkee	
Date	29 Mar 05	Reg. No. 41,003

## CERTIFICATE OF TRANSMISSION/MAILING

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Signature



Typed or printed name

Paul D. Durkee

Date 29 Mar 05

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Effective on 12/08/2004.  
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

# FEE TRANSMITTAL For FY 2005

 Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$)

120

## Complete if Known

Application Number	09/769,604
Filing Date	January 25, 2001
First Named Inventor	Stephen M. Howard
Examiner Name	Ramy M. Osman
Art Unit	2157
Attorney Docket No.	EMC-002PUS

## METHOD OF PAYMENT (check all that apply)

Check  Credit Card  Money Order  None  Other (please identify): \_\_\_\_\_

Deposit Account Deposit Account Number: 50-0845 Deposit Account Name: Daly, Crowley, Mofford & Durkee, LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

Charge fee(s) indicated below  Charge fee(s) indicated below, except for the filing fee

Charge any additional fee(s) or underpayments of fee(s)  Credit any overpayments

under 37 CFR 1.16 and 1.17

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

## FEE CALCULATION

## 1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity	Fee (\$)	Small Entity	Fee (\$)	Small Entity	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

## 2. EXCESS CLAIM FEES

## Fee Description

Each claim over 20 or, for Reissues, each claim over 20 and more than in the original patent

50 25

Each independent claim over 3 or, for Reissues, each independent claim more than in the original patent

200 100

Multiple dependent claims

360 180

## Total Claims

## Extra Claims

## Fee (\$)

## Multiple Dependent Claims

## Fee (\$)

## Fee Paid (\$)

- 20 or HP = 0 x    = 0

HP = highest number of total claims paid for, if greater than 20

Indep. Claims

- 3 or HP = 0 x    = 0

HP = highest number of independent claims paid for, if greater than 3

## 3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
- 100 =	0	/ 50 = 0 (round up to a whole number) x 0 = 0	0	0

## 4. OTHER FEE(S)

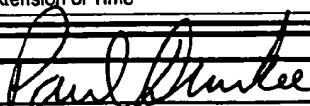
Non-English Specification, \$130 fee (no small entity discount)

0

Other: One Month Extension of Time

120

## SUBMITTED BY

Signature		Registration No. (Attorney/Agent)	41,003	Telephone 781.401.9988 ext. 21
Name (Print/Type)	Paul D. Durkee			Date 29 Mar 05

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 09/769,604 Confirmation No.: 4397  
Applicant : Stephen M. Howard et al.  
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Examiner : Ramy M. Osman  
  
Docket No. : EMC-002PUS  
Customer No. : 022494

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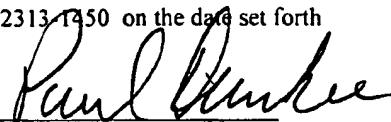
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29 Mar 05

Date of Signature  
and Mail Deposit

By: \_\_\_\_\_

  
Paul D. Durkee

Reg. No. 41,003

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REQUEST FOR EXTENSION OF TIME

MS Amendment  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

Sir:

It is requested that the time for response to this Office Action dated November 30, 2004 be extended for a one-month period of time to end March 30, 2005, under the provisions of 37 C.F.R. §1.136. The fee of \$120.00 called for by 37 C.F.R. §1.17 is enclosed herewith.

In the event any additional fee is required, please charge such amount to the Patent and Trademark Office Deposit Account No. 50-0845.

Dated: 29 Mar 05

Respectfully submitted,

DALY, CROWLEY & MOFFORD, LLP

By: Paul Durkee

Paul D. Durkee  
Reg. No. 41,003  
Attorney for Applicant(s)  
275 Turnpike Street, Suite 101  
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Tel.: (781) 401-9988, ext. 21  
Fax: (781) 401-9966  
*pdd@dc-m.com*

8211

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 09/769,604 Confirmation No.: 4397  
Applicant : Stephen M. Howard, et al.  
Filed : January 25, 2001  
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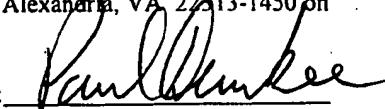
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Amendment, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on  
the date set forth below.

29 Mar 05

Date of Signature  
and Mail Deposit

By:

  
Paul D. Durkee

Reg. No. 41,003

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RESPONSE

Mail Stop Amendment  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

In response to the Official Action dated November 30, 2004, please amend the  
above-identified patent application as follows.

**Amendments to the Claims** are reflected in the listing of claims which begins on  
page 2 of this paper.

**Remarks/Arguments** begin on page 6 of this paper.

Amendments to the Claims:

This listing of the claims will replace all prior versions, and listings, of the claims in the application:

1. 1. (Currently Amended) A method of restoring backed up data, comprising:
  2. retrieving, by a data backup and storage system, a list of objects that are restorable by a client;
  4. displaying the list of restorable objects for browsing by a user;
  5. generating a list of restorable objects marked for restoration by the user, wherein
  6. each of the restorable objects is associated with a particular library;
  7. submitting [[a]] the list of marked restorable objects [[marked]] for restoration by the client;
  9. executing a restoration of the submitted list of marked restorable objects via a remote procedure call such that multiple restore submissions can be made prior to restore execution.
1. 2. (Original) The method according to claim 1, further including executing multiple restore submissions concurrently.
1. 3. (Original) The method according to claim 1, further including initiating a restore session for the client.
1. 4. (Original) The method according to claim 3, further including creating a restore engine process for the retrieving, browsing, submitting and executing of restore objects.
1. 5. (Original) The method according to claim 4, wherein the client communicates with the restore engine process via remote procedure calls.
1. 6. (Original) The method according to claim 4, wherein the restore engine process is created by a dispatch daemon on a backup storage system server.

Reply to Office Action of November 30, 2004

- 1 7. (Original) The method according to claim 4, wherein the restore engine
- 2 process is terminated upon completion of the restore execution.
  
- 1 8. (Original) The method according to claim 4, wherein the restore engine
- 2 process runs on a backup data storage server and further including creating a work
- 3 item restore process on the backup data server, a server restore process for
- 4 generating a stream of data to be restored, and a client restore process for
- 5 receiving the data stream.
  
- 1 9. (Original) The method according to claim 4, further including detecting and
- 2 identifying libraries that support associated catalogs of backed up data for
- 3 processing of backed up data by the restore engine process.
  
- 1 10. (Original) The method according to claim 9, further including adding a new
- 2 library supporting new methods of backing up data.
  
- 1 11. (Original) The method according to claim 9, further including determining
- 2 object types for backed up data supported by the libraries.
  
- 1 12. (Currently Amended) A method of restoring backed up data, comprising:  
2 initiating a restore session for a first client via a dispatch daemon running on a  
3 data storage server through a graphical user interface associated with the client;  
4 creating a restore engine process in response to a request by the dispatch daemon;  
5 establishing a connection between the graphical user interface and the restore  
6 engine process;  
7 displaying a list of restorable objects for browsing by a user associated with the  
8 client via the graphical user interface under the control of the restore engine process;  
9 [determining] identifying restorable objects marked for restoration by the user  
10 under control of the restore engine process;  
11 storing a list of marked restorable objects submitted by the client to the restore  
12 engine process; and

13                   executing the restoration of the marked objects under control of the restore engine  
14                   process independently of the browsing, marking and submitting of the restorable objects  
15                   such that multiple restore submissions can be made prior to restore execution.

1   13. (Original) The method according to claim 12, wherein the client  
2                   communicates with the restore engine process via remote procedure calls.

1   14. (Original) The method according to claim 12, further including supporting a  
2                   new backup data method by adding a library corresponding to the new backup  
3                   data method.

1   15. (Currently Amended) A data backup and storage system, comprising:  
2                   a backup storage system for storing backup data from a client storage system  
3                   under control of a user associated with the client, the backup storage system including:  
4                   a server creating a restore engine process as part of a restore session with a  
5                   client, the restore engine communicating with the client via remote procedure calls to  
6                   allow the user to browse restorable objects, mark selected ones of the restorable objects  
7                   for restoration, submit a list of restorable objects marked by the user, and execute  
8                   restoration of the submitted list of restorable objects, wherein the restore execution is  
9                   performed independently of the browse, mark and submit operations such that multiple  
10                   restore submissions can be made prior to execution of the restore; and  
11                   a work item restore process, a server restore process, and a client restore process  
12                   created by the restore engine process to form a restore triangle for executing the restore  
13                   operation..

1  
1   16. (Canceled)

1  
1   17. (Original) The system according to claim 15, wherein the restore engine  
2                   process processes libraries upon restore initialization such that libraries can be  
3                   added to the system for supporting new backup methods.

- 1 18. (Original) The system according to claim 17, further including a dispatch
- 2 daemon for initiating the restore session.
  
- 1 19. (Original) The system according to claim 15, further including further restore
- 2 engine processes corresponding to further restore sessions initiated by additional
- 3 clients.
  
- 1 20. (Original) The system according to claim 19, further including additional
- 2 restore triangles for executing multiple work item restores concurrently.

REMARKS

Applicant respectfully requests reconsideration of the above-identified patent application in view of the amendments set forth above and the remarks below.

Claims 1-15 and 17-20 are pending in the application and are rejected. Claim 16 was previously canceled.

Claim Objections

Claim 15 is amended to include a colon after the word "including" as suggested by the Examiner.

The Rejections Under 35 U.S.C. §112, First Paragraph

The Examiner rejects Claim 1 under 35 U.S.C. §112 first paragraph first paragraph. While Applicant does not necessarily agree with the Examiner's assertion that claim 1 omits essential elements, Applicant amends claim 1 to clarify browsing and marking steps. Applicant makes this amendment not for reasons of patentability but rather to expedite allowance of the present application.

The Rejections Under 35 U.S.C. §112, Second Paragraph

The Examiner rejects Claims 1-11 under 35 U.S.C. §112 second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Examiner asserts that the limitation "retrieving a list of object..." is indefinite on the basis that there is no indication as to who is retrieving the list. While Applicant does not agree that the retrieving must be identified in present method claim 1, Applicant amends claim 1 to clarify that a data backup and storage system retrieves the list of objects to expedite allowance of the present application and not for reasons of patentability. Applicant also amends claim 1 to clarify the lists of different objects as set forth above.

Claim 12 is amended to recite "identifying" to replace "determining" to more clearly define the claimed invention.

With respect to claim 15 and the term "restore triangle," Applicant is unclear as to the Examiner's basis for rejection. As the Examiner notes, this term is shown and described multiple times in Applicant's specification. In addition, in an exemplary embodiment Applicant shows well-known Unix functions (auxproc, recxcpio, xcpiogen) that can be used to provide the "restore triangle," which is described in the specification.

The Prior Art Rejections

The Examiner rejects Claims 1-20 under 35 U.S.C. §103(a) over U.S. Patent No. 6,611,850 to Shen in view of U.S. Patent No. 6,427,149 to Rodriguez.

Shen merely discloses an apparatus for file backup and restoration. Applicant submits that Shen clearly falls within the prior art systems described in the Background of the Invention section of Applicant's specification that require serial browsing, marking and submitting of items for restoration. Further, as described in the passage in Shen cited by the Examiner (col. 19, lines 10-30 and 35-50), Shen is limited to restoration of a *file*. Shen does not contemplate multiple restoring *objects*, such as databases, files, etc., as described in Applicant's specification, let alone executing a restoration of the submitted list of marked restorable objects via a remote procedure call such that multiple restore submissions can be made prior to restore execution.

In contrast, amended claim 1 requires a method of restoring backed up data, including retrieving, by a data backup and storage system, a list of objects that are restorable by a client, displaying the list of restorable objects for browsing by a user, generating a list of restorable *objects marked for restoration* by the user, wherein *each of the restorable objects is associated with a particular library*, submitting the list of marked restorable objects for restoration by the client, and executing a restoration of the submitted list of marked restorable objects via a remote procedure call such that *multiple restore submissions can be made prior to restore execution*.

Applicant submits that Shen simply does not contemplate the claimed method of restoring backed up data, which requires, among other things, generating a list of restorable *objects marked for restoration* by the user, wherein *each of the restorable objects is associated with a particular library*, and executing a restoration of the submitted list of marked restorable objects via a remote procedure call such that *multiple restore submissions can be made prior to restore execution*.

While Applicant submits that the invention as claimed is quite different from that of Shen and/or Rodriguez, Applicant amends claim 1 to clarify that "*each of the restorable objects is associated with a particular library*," as described in the specification, at page 13, for example. Libraries are further described throughout the application. Libraries provide information contained in catalogs of back up data to a restore engine for allowing a user to browse and mark files for restoration. Submit objects include one or more submit files containing information extracted from the library catalogs associated with marked objects by the restore engine to enable restoration of the objects.

Applicant submits that Rodriguez fails to overcome any of the deficiencies of Shen set forth above.

Rodriguez merely teaches a technique to enable an Internet user to utilize a browser application to see and select files in a ZIP archive file by providing hyper text links in an HTML document. Rodriguez avoids the need for a user to download the entire ZIP archive file. Applicant presumes the Examiner is quite familiar with zipping files to compress data in an archive file and unzipping archive files. Applicant submits that the trivial archive file recovery technique taught by Rodriguez is quite irrelevant to backing up huge amounts of data contained in submit objects, which can include databases, and restoring the backed up data using a data backup system, such as the one shown and described in Applicant's specification.

Applicant submits that Rodriguez fails to teach or suggest any of the claimed method of restoring backed up data, which requires, among other things, generating a list of restorable *objects marked for restoration* by the user, wherein *each of the restorable objects is associated with a particular library*, and executing a restoration of the submitted list of marked restorable objects via a remote procedure call such that *multiple restore submissions can be made prior to restore execution*.

Accordingly, Applicant submits that claim 1 is patentably distinguishable over Shen and/or Rodriguez. For at least substantially the same reasons, Applicant submits that claims 2-15 and 17-20 are also distinguishable over the cited references.

Moreover, as the Examiner is well aware, to properly establish prima facie obviousness a motivation to combine the references as proposed must be identified. In the present case, the Examiner has impermissibly used Applicant's disclosure as a roadmap in attempt to identify and combine certain features of the claimed invention to establish, using hindsight, that the invention is obvious. The Examiner has identified no such motivation to combine the references as proposed. Applicant submits that, absent Applicant's specification, the Examiner can identify no such motivation since none exists. Shen is directed to a system for backing up and restoring data using a "backup copy generating process" and a "restore process," which are explained in great detail. Rodriguez is directed to simply accessing files in a zipped archive file over the Internet using a browser, which is hardly compatible with the system taught by Shen. Rodriguez is limited to zipped archive files and has no relationship to, and is useless for, the backup and restore system of Shen.

In view of the above, Applicant submits that claims 1-15 and 17-20 are patentably distinguishable over the cited references.

The Examiner is respectfully invited to telephone the undersigning attorney if there are any questions regarding this Amendment or this application.

Applicant does not acquiesce to any assertion made by the Examiner that is not specifically addressed herein.

The Assistant Commissioner is hereby authorized to charge payment of any additional fees associated with this communication or credit any overpayment to Deposit Account No. 500845.

Respectfully submitted,

Dated: 29 Mar 05

DALY, CROWLEY & MOFFORD, LLP

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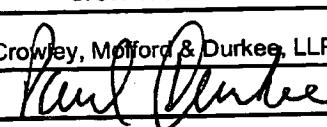
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Filing Date	12/21/2001 : January 25, 2001	
First Named Inventor	Stephen M. Howard	
Art Unit	2157	
Examiner Name	Ramy M. Osman	
Attorney Docket Number	EMC-002PUS	

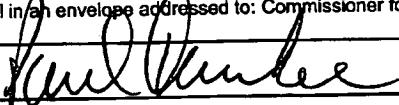
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